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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,948	11/08/2000	Tetsuro Ashida	0879-0289P	9136

7590

04/20/2004

BIRCH, STEWART, KOLASCH & BIRCH, LLP  
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Falls Church, VA 22040-0747

EXAMINER
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BALI, VIKKRAM

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/20/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/707,948

Applicant(s)

ASHIDA ET AL.

Examiner

Vikram Bali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/3/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

In response to the amendment filed on 2/3/2004 all the amendments have been entered and the action follows:

1. Applicant's arguments, see pages 10-12, filed 2/3/2004, with respect to the rejection(s) of claim(s) 1-6 under 35 USC 102 AND 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found art.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (US 5426517) in view of Patton et al (US 6102846).

With respect to claims 1 and 2, Schwartz discloses the image playback apparatus (a display monitor), to display the image for the purpose of dynamic range changing and tone conversion characteristic changing on at least a part of the reproduced image, (see col. 13, lines 34-40, the operator selects the part of the image using the cursor, and the selected part of the image gets color modified using the luminance levels, col. 8 section colorfulness transform). However, he fails to disclose the automatically ... that has been selected by an action of a viewer viewing the image, as claimed. Patton teaches a system that automatically changes ... images that has been selected by an action of a viewer viewing the images, (see col. 4, lines 28-33 and col. 4, lines 15-23, automatically is read as the computer system performing the process) as claimed.

The two references are combinable because they are solving similar problem of image reproduction.

It would have been obvious to one ordinary skilled in the art at the time of invention to replace the mouse numerical 40 of figure 3 of Schwartz with a detector

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device numerical 11 of figure 1 of Patton because both mouse and detector device are use to input devices and can be replaced, and one skilled in the art knows it is common knowledge to replace between the input devices.

Claim 3 is rejected for the same reasons as set forth in the rejection of claims 1 and 2 above and furthermore Schwartz further discloses a tone conversion characteristic varying device, (see col. 8, section colorfulness transform) and image processing device, (see figure 3 numerical 34 and 35 as the image output device and the numerical 30 for the image processing device).

With respect to claim 4 and 5, Patton further teaches the output device is display, (see figure 1 numerical 7) and area-specifying device comprises a line of sight detection apparatus (see figure 1 numerical 11, also col. 4, lines 15-35 for discussion) as claimed.

With respect to claim 6, Patton further teaches a touch panel ,(see col. 3, lines 57-58, the display device can be a TV handheld device such as game boy or alike i.e. the handheld device are PDA's and it is known to use the touch panel PDA's) as claimed. Therefore, it is obvious to one ordinary skilled in the art at the time of invention to use a touch panel because it is conventional to use hand held devices as the touch panels.

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Claim 7 is rejected for the same reasons as set forth for the rejection of claims 1, 2, because claim 7 is claiming similar subject matter as claimed in claims 1, 2.

Claim 8 is rejected for the same reasons as set forth for the rejection of claim 6, because claim 8 is claiming similar subject matter as claimed in claim 6.

With respect to claims 9-12, Patton further teaches, action of the viewer viewing, area specifying device that specifies desired area by the action of the viewer, and output the image on the image output device, (see figure 1, numerical 7 the display device "output device" outputs an image depending upon the eye movement "viewer viewing" of the user that specifies the image "area specified" from the input images, see col. 4, lines 15-35) as claimed.

Claims 13-18 are rejected for the same reasons as set forth for the rejection of claims 7-12, because claims 13-18 are claiming similar subject matter as claimed in claims 7-12.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

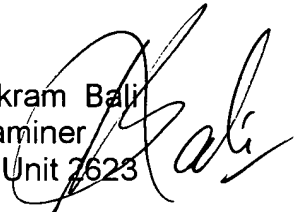
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vikkram Bali  
Examiner  
Art Unit 2623



vb  
April 15, 2004